

ESTTA Tracking number: **ESTTA607985**Filing date: **06/04/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	D.J. Bronson, Inc.		
Entity	Corporation	Citizenship	California
Address	5401 Telegraph Rd. Commerce, CA 90040 UNITED STATES		

Attorney information	J. Alison Grabell Ezra Brutzkus Gubner LLP 21650 Oxnard Street Suite 500 Woodland Hills, CA 90040 UNITED STATES agrabell@ebg-law.com, sbroffman@ebg-law.com Phone:818-827-9000
----------------------	---

Registration Subject to Cancellation

Registration No	3427380	Registration date	05/13/2008
Registrant	Damo Textile 1951 Staunton Ave. Los Angeles, CA 90058 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2008/01/01 First Use In Commerce: 2008/01/01 All goods and services in the class are cancelled, namely: Blouses; body suits; [bras; briefs; cam-isoles; crop tops;] dresses; jackets; jeans; loungewear; overalls; pajamas; [panties;] pants; polo shirts; [shorts;] skirts; sleepwear; sweat pants; sweat shirts; T-shirts; tank tops; [undershirts; under-wear]

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
The registration is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used.	Trademark Act section 14

Attachments	Petition for Cancellation of MASQUERADE.pdf(1037076 bytes)
-------------	---

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address

record by First Class Mail on this date.

Signature	/J. Alison Grabell/
Name	J. Alison Grabell
Date	06/04/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

D.J. BRONSON, INC.,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. _____
)	(Registration No. 3427380)
DAMO TEXTILE,)	
)	
Respondent.)	
_____)	

BOX TTAB – FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

PETITION FOR CANCELLATION

D.J. BRONSON, INC., a corporation organized and existing under the laws of the State of California, with an address at 5401 Telegraph Road, Commerce, CA 90040 (“Petitioner”) believes it is and will continue to be damaged by the registration of MASQUERADE (Registration No. 3427380) for “Blouses; body suits; dresses; jackets; jeans; loungewear; overalls; pajamas; pants; polo shirts; skirts; sleepwear; sweat pants; sweat shirts; T-shirts; tank tops” in International Class 25 (the “’380 Registration”), which is owned by Damo Textile, a California corporation, with an address at 1951 Staunton Avenue, Los Angeles, California 90058.

Petitioner seeks cancellation of the ‘380 Registration pursuant to Section 14 of the Trademark Act of 1946, 15 U.S.C. § 1064 (the “Trademark Act”).

As grounds for cancellation, Petitioner avers that:

1. Petitioner is the owner of the mark MASQUERADE, for dresses.

2. Petitioner has used the MASQUERADE mark on dresses continuously since at least as early as 1998.

3. Petitioner has filed in the U.S. Patent and Trademark Office an application to register the mark MASQUERADE (Serial No. 86299540) for “dresses” in Class 25 (the “540 Application”).

4. To the best of Petitioner’s knowledge, the ‘380 Registration is owned by Respondent.

5. Upon information and belief, Respondent is a corporation organized under the laws of the State of Delaware.

6. Commencing long prior to Respondent’s claimed date of first use, Petitioner had been and still is engaged in the sale, offering for sale and distribution of special occasion dresses in commerce which may be lawfully regulated by Congress.

7. As a result of Petitioner’s promotion and use of Petitioner’s mark MASQUERADE, customers have come to know and recognize Petitioner’s mark and have associated same with Petitioner’s goods.

8. Commencing long prior to Respondent’s claimed date of first use, Petitioner used and continues to use the mark MASQUERADE to identify the origin of its goods.

9. Respondent’s use and registration of the mark MASQUERADE will enable Respondent to trade upon and utilize the goodwill established by Petitioner in Petitioner’s mark MASQUERADE.

10. Respondent’s use and registration of the mark MASQUERADE is a simulation and/or a colorable imitation of and/or closely resembles Petitioner’s mark MASQUERADE.

11. Upon information and belief, Petitioner and Respondent are both engaged in the sale, offering for sale and distribution of their respective goods through the same channels of trade, and to the same general class of purchasers.

12. Upon information and belief, the public and/or customers are likely to be confused, mistaken or deceived as to the origin and sponsorship of Respondent's goods marketed under the mark MASQUERADE and/or misled into believing that such goods emanate from, are licensed by, or are in some way directly or indirectly associated with Petitioner, or are the goods of Petitioner.

13. Petitioner will be damaged by the continued use and registration by Respondent of the mark MASQUERADE as set forth in Respondent's Registration No. 3427380, in that Respondent's alleged mark is confusingly similar to Petitioner's mark MASQUERADE for said goods.

14. Upon information and belief, Respondent's application Serial Number 77055252 (the "252 Application") to register the MASQUERADE mark was void *ab initio*. Accordingly, the '380 Registration which issued from the '252 Application should be canceled pursuant to Section 14 of the Trademark Act.

15. Upon information and belief, the '380 Registration is void *ab initio* for fraud on the Trademark Office, in that Respondent knew that it had no right, title or interest in and to the MASQUERADE mark as shown on the specimens of use in commerce submitted in support of the '252 Application which matured into the '380 Registration. Accordingly, the '380 Registration should be cancelled pursuant to *Torres v. Cantine Torresella* and *In re Bose*.

16. Upon information and belief, the '380 Registration is void *ab initio* for fraud on the Trademark Office, in that Respondent knowingly and intentionally deceived the Trademark Office. Accordingly, the registration for the MASQUERADE mark should be cancelled pursuant to *Torres v. Cantine Torresella* and *In re Bose*.

WHEREFORE, Petitioner requests that this Petition for Cancellation be granted and that Registration No. 3427380 be cancelled.

Petitioner further requests that its Application Serial No. 86299540 be suspended pending disposition of the instant cancellation proceeding.

Please charge any fee deficiency incurred by Petitioner in conjunction with this proceeding to Deposit Account No. 504717.

Respectfully submitted,



Robert Ezra
e-mail: rezra@ebg-law.com
J. Alison Grabell
e-mail: agrabell@ebg-law.com
Ezra Brutzkus Gubner LLP
21650 Oxnard Street, Suite 500
Woodland Hills, CA 91367

Attorneys for Petitioner,
D.J. BRONSON, INC.

Date: June 4, 2014

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the subject Petition for Cancellation was served upon the Respondent via First Class Mail, postage prepaid, this 4th day of June, 2014, as follows:

Damo Textile
1951 Staunton Avenue
Los Angeles, California 90058

With a copy to
Correspondent for Damo Textile:
George Busu, Esq.
Lim Ruger & Kim LLP
1055 West 7th Street
Suite 2800
Los Angeles, California 90017



Dated: June 4, 2014

SHERI LEE BROFFMAN